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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,862	02/06/2004	Eduardo Carlos Vasquez		7224

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EXAMINER	
ELDRED, JOHN W	

ART UNIT	PAPER NUMBER
3641	

MAIL DATE	DELIVERY MODE
07/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/773,862	VASQUEZ, EDUARDO CARLOS	
	Examiner	Art Unit	
	J. Woodrow Eldred	3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 November 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *25-48* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *25-48* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *06 February 2004 and 11 July 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 25-48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Each of claims 25 and 46 fail to end in a period dot, so it is unclear if the claims are complete.

In claim 47, the term "may include" is vague and indefinite since it not clear if the following elements in the claim are required limitations.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 25, 26, 28, 29, 32, 39-42, and 44-48 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Glock (6,643,968).

Glock discloses an automatic reloading weapon with firing/ammunition tracking comprising all claimed elements including a battery powered microprocessor 14 assembly that is programmable and has nonvolatile storage and a timer (column 3, lines 53), for detecting and tracking the depletion of ammunition; piezoelectric transducer means that comprises two piezoelectric elements for detecting the dynamic activity of the weapon to determine firing and slide movement (see column 1, line 58 – column 2, line 18 and column 4, lines 29-36); the piezoelectric elements, which inherently provide electric signals, are connected to

the microprocessor which times the signals to determine if only firing occurs or if firing and slide movement occurs; if slide movement occurs, the ammunition count is determined (see column 4, lines 11-17). Also disclosed are means to enable the assembly to become enabled from a low power state upon firing of the weapon (column 4, lines 18-28); a plastic block which will inherently provide at least some "vibration dampening provisions" as claimed in Claim 48 (see column 4, lines 29-36); and control means 26 which allow programming and the insertion of "user traceable information" as well as retrieval of all stored data (see column 2, line 33-column 3, line 13. Also, in regard to claims 45 and 46, it is inherent that an analog signal coming from the piezoelectric sensors will involve modification and conditioning to be utilized by the digital microprocessor.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 27, 30, 31, 34-38, and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glock (6,643,968) in view of Crain (5,052,138).

Glock discloses an automatic reloading weapon with firing/ammunition tracking comprising all claimed elements including a battery powered microprocessor 14 assembly that is programmable and has nonvolatile storage and a timer (column 3, lines 53), for detecting and tracking the depletion of ammunition; piezoelectric transducer means that comprises two piezoelectric elements for detecting the dynamic activity of the weapon to determine firing and slide movement (see column 1, line 58 – column 2, line 18 and column 4, lines 29-36); the piezoelectric elements, which inherently provide electric signals, are connected to the microprocessor which times the signals to determine if only firing occurs or if firing and slide movement occurs; if slide movement occurs, the ammunition

count is determined (see column 4, lines 11-17). Also disclosed are means to enable the assembly to become enabled from a low power state upon firing of the weapon (column 4, lines 18-28); a plastic block which will inherently provide at least some "vibration dampening provisions" as claimed in Claim 48 (see column 4, lines 29-36); and control means 26 which allow programming and the insertion of "user traceable information" as well as retrieval of all stored data (see column 2, line 33-column 3, line 13. Also, in regard to claims 45 and 46, it is inherent that an analog signal coming from the piezoelectric sensors will involve modification and conditioning to be utilized by the digital microprocessor. Glock fails to teach the claimed visual signaling means, that the assembly will automatically return to the lower power state, or the data storage includes security limiting means.

Crain teaches that it is well known (in a firearm which tracks ammunition use) to have a visual display means 42 on the firearm that comprises a plurality of light generations that provides the user with a report on the use of ammunition. See, for example, column 5, lines 50-56 or column 6, lines 35-48.

In regard to claims 30 and 31, Crain also teaches button (i.e. switch) 52 which indicates a status of a weapon component (i.e. if the handle is held by a user) and functions as a control means (i.e. provides power.) See column 4, lines 39-46. In regard to claim 27, Crain teaches in column 4, lines 42-46 that it is well known in a firearm to have an electrical circuit automatically power down at some predetermined time after use is finished.

Motivation to combine is the improved performance available with the teachings of Crain. Specifically, the user has increased ability to use and control the firearm when there is a visual system signaling the amount of ammunition available; efficiency is improved if the system can only be activated while a switch indicates that the weapon is being held for use; and battery power will be saved if the power down mode is entered automatically. To employ the teachings of Crain on the firearm of Glock and have visual signaling, an indicator switch connected to

the control means, and automatic power down is considered to have been obvious to one having ordinary skill in the art.

7. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Glock (6,643,968) in view of Dworzan et al (6,775,940).

Glock discloses an automatic reloading weapon with firing/ammunition tracking comprising all claimed elements including a battery powered microprocessor 14 assembly that is programmable and has nonvolatile storage and a timer (column 3, lines 53), for detecting and tracking the depletion of ammunition; piezoelectric transducer means that comprises two piezoelectric elements for detecting the dynamic activity of the weapon to determine firing and slide movement (see column 1, line 58 – column 2, line 18 and column 4, lines 29-36); the piezoelectric elements, which inherently provide electric signals, are connected to the microprocessor which times the signals to determine if only firing occurs or if firing and slide movement occurs; if slide movement occurs, the ammunition count is determined (see column 4, lines 11-17). Also disclosed are means to enable the assembly to become enabled from a low power state upon firing of the weapon (column 4, lines 18-28); a plastic block which will inherently provide at least some "vibration dampening provisions" as claimed in Claim 48 (see column 4, lines 29-36); and control means 26 which allow programming and the insertion of "user traceable information" as well as retrieval of all stored data (see column 2, line 33-column 3, line 13. Also, in regard to claims 45 and 46, it is inherent that an analog signal coming from the piezoelectric sensors will involve modification and conditioning to be utilized by the digital microprocessor.
Glock fails to show a weapon operation event detecting means capable of detecting inclination.

Dworzan et al teach that it is known to employ an inclination detection means 40 in a firearm. See column 3, lines 40-58. Motivation to combine is the increased performance of the system by having means to indicate that the weapon is in use. To employ the teachings of Dworzan et al on the firearm of Glock and have an

inclincation detection means is considered to have been obvious to one having ordinary skill in the art.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Harthcock (5,303,495) is cited as being of interest since it discloses a firearm with an ammunition counting system.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Woodrow Eldred whose telephone number is 571-272-6901. The examiner can normally be reached on Monday to Thursday, from 8:00 a.m. to 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

J. Woodrow Eldred

J. Woodrow Eldred
Primary Examiner
Art Unit 3641

JWE